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# Cross border shopping and smuggling

Since the inception of the Single European Market on 1 January 1993, travellers have been entitled to purchase alcohol and tobacco products in other EU countries without paying any extra tax or duty when they bring them back to the UK, *provided* these goods are for their own personal use. Cross border shopping has been encouraged by the relatively low rates of excise duty on these goods in some Member States. It has been accompanied by a substantial growth in excise fraud, from shoppers reselling goods they had bought on the Continent, and organised crime smuggling goods from other EU states and from outside the EU altogether. The growth in tobacco smuggling has been particularly severe, the market share of smuggled cigarettes increasing from a negligible level in 1993 to almost 20 per cent in 2000.

This paper looks at these developments and the Government's strategy to tackle this form of tax fraud.

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## Summary of main points

Travellers do not need to pay any extra tax or duty on tobacco or alcohol bought in other EU countries, provided these goods are for their own use. The UK uses certain guide levels for excisable products, to guide Customs officers in determining whether goods are for personal use or not. These levels are unchanged since their introduction on 1 January 1993, with the inception of the Single European Market; they are set out below:

<b>Alcohol</b>	<b>Tobacco</b>
10 litres spirits	200 cigars
20 litres fortified wines	400 cigarillos
90 litres wines	800 cigarettes
of which, no more than 60 litres sparkling	
110 litres beer	1kg smoking tobacco.

In assessing whether goods are for personal use, the important distinction is between commercial purchases and non-commercial ones. The main criteria used by Customs officers are set out in paragraph 5 of the *Excise Duties (Personal Reliefs) Order* SI 1992/3155;<sup>1</sup> notably, the onus of proof *falls on the traveller* if their purchases exceed the guide levels. Guidance on these rules is published by HM Customs & Excise.<sup>2</sup>

In March 2000 the Government published its strategy to cut down the incidence of tobacco smuggling, building on the recommendations made in a report by Martin Taylor to the Chancellor in November 1999.<sup>3</sup> It was proposed that one of the principal methods to discourage smuggling, or the purchase of tobacco for illegal resale, would be the seizure of assets from travellers, including the vehicle in which they were travelling. Despite concerns expressed by travellers, commentators and the European Commission about Customs' policy in this area, in November 2001 the Government published a report on the first year of this strategy, suggesting that it was proving highly effective.<sup>4</sup>

In May 2002 Customs announced that its policy towards vehicle seizure would be modified, in light of a Court of Appeal judgement concerning the proportionality of a Customs decision to seize a vehicle in forfeit for smuggling tobacco. Briefly, in cases of 'not-for-profit' smuggling – where individuals are smuggling to sell to family or friends on a non-profit basis – the traveller's vehicle is still liable to be seized, but dependent on individual circumstances, restoration will normally be offered for a fee.<sup>5</sup>

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<sup>1</sup> as amended by SI 1999/1617

<sup>2</sup> *A Customs guide for travellers entering the UK Customs Notice 1*, June 2001. Copies are available from Customs' internet site at: [www.hmce.gov.uk/forms/graphics/notice1.pdf](http://www.hmce.gov.uk/forms/graphics/notice1.pdf).

<sup>3</sup> HM Treasury/HM Customs & Excise, *Tackling Tobacco Smuggling*, March 2000, which is available at: [www.hm-treasury.gov.uk/mediastore/otherfiles/433.pdf](http://www.hm-treasury.gov.uk/mediastore/otherfiles/433.pdf).

<sup>4</sup> HM Customs & Excise, *Tackling Indirect Tax Fraud*, November 2001, which is available at: <http://www.hmce.gov.uk/forms/budgetnotices/pbr-2001/fraud-complete.pdf>.

<sup>5</sup> HM Customs & Excise press notice PR34/02, 2 May 2002



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## I Cross border shopping and the introduction of the Single European Market

The introduction of the Single European Market on 1 January 1993 meant the abolition of travellers' allowances - the limits placed on the amounts of tax-paid goods (goods liable to excise duty and/or VAT) which individuals could buy for themselves. Agreement between Member States on this issue was reached in November 1991, and is enshrined in EC directive 92/12/EEC.<sup>6</sup> Article 8 of directive 92/12/EEC states that, "as regards products acquired by private individuals for their own use and transported by them, the principle governing the internal market lays down that excise duty shall be charged in the Member State in which they are acquired." This establishes the rule that provided travellers' imports are for their own personal use, they are not liable to pay any further excise duty on returning home.

As a result, since 1 January 1993 travellers have been allowed to purchase alcohol and tobacco products on the Continent for their own use, without paying any additional UK tax on these items. Before then shoppers could import only a limited amount of *tax-paid* goods.<sup>7</sup> Now when travellers buy any goods in the EU, they pay all the duty and VAT due in the Member State where they bought them. Goods will be chargeable with UK duty only if they are sold or have been purchased for someone else.

Each Member State may set indicative levels of alcohol and tobacco purchases, to help Customs officers distinguish between commercial and genuinely private importations. The levels are indicative only. Below them, imported goods will be chargeable with UK duty only if they are sold or have been purchased for someone else. Article 9 of directive 92/12/EEC specifies these indicative limits. The directive was implemented in UK law by the *Excise Duties (Personal Reliefs) Order* SI 1992/3155. The UK indicative levels - or guide levels, as they are now known - are set out in the Schedule to this Order, and are as follows:

- 10 litres spirits
- 20 litres fortified wines
- 90 litres wines (of which, no more than 60 litres sparkling)
- 110 litres beer
- 200 cigars
- 400 cigarillos
- 800 cigarettes
- 1kg smoking tobacco.

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<sup>6</sup> Council Directive 92/12/EEC of 25 February 1992

<sup>7</sup> Travellers' allowances for the period 1968-1992 are set out in Treasury Committee, *Second report: HM Customs & Excise*, 8 February 2000 HC 53, 1999-2000 p 57. Duty-free sales on journeys within the EU were abolished from 1 July 1999, though they are still available to travellers to and from other countries. For details see, *Duty-free shopping*, Library Research paper 99/74 22 July 1999.

In assessing whether goods are for personal use, the important distinction is between commercial purchases and non-commercial ones.<sup>8</sup> The main criteria used by Customs officers are set out in paragraph 5 of the *Excise Duties (Personal Reliefs) Order SI 1992/3155* – which is reproduced below;<sup>9</sup> notably, the onus of proof *falls on the traveller* if their purchases exceed the guide levels:

5.—(1) The reliefs afforded under this Order are subject to the condition that the excise goods in question are not held or used for a commercial purpose whether by the Community traveller who imported them or by some other person who has possession or control of them; and if that condition is not complied with in relation to any excise goods, those goods shall, without prejudice to article 6 below, be liable to forfeiture.

(2) In determining whether or not the condition imposed under paragraph (1) above has been complied with regard shall be taken of—

- (a) his reasons for having possession or control of those goods;
- (b) whether or not he is a revenue trader;
- (c) his conduct in relation to those goods and, for the purposes of this sub-paragraph, conduct includes his intentions at any time in relation to those goods;
- (d) the location of those goods;
- (e) the mode of transport used to convey those goods;
- (f) any document or other information whatsoever relating to those goods;
- (g) the nature of those goods including the nature and condition of any package or container;
- (h) the quantity of those goods;
- (i) whether he has personally financed the purchase of those goods; and
- (j) any other circumstance which appears to be relevant.

(3) Paragraphs (3A) to (3C) below apply to a person who has in his possession or control any excise goods afforded relief under this Order in excess of any of the quantities shown in the Schedule to this Order.

(3A) The Commissioners may require a person to whom this paragraph applies to satisfy them that the excise goods afforded relief under this Order are not being held or used for a commercial purpose.

(3B) Where a person fails to satisfy the Commissioners that the excise goods in question are not being held or used for a commercial purpose the condition imposed by paragraph (1) above shall, subject to paragraph (3C) below, be treated as not being complied with.

(3C) Paragraph (3B) above shall not apply where a court or tribunal is satisfied that the condition imposed by paragraph (1) has been complied with.

The use of these criteria by Customs officers was confirmed in answer to a PQ:

**Mr. Laurence Robertson:** To ask the Chancellor of the Exchequer what guidance he gives to customs officers regarding the questioning of people bringing into the UK tobacco products and alcohol in quantities below the guidelines stated on HM Customs and Excise Notice 1; and if he will make a statement.

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<sup>8</sup> Further guidance for travellers is given in HM Customs & Excise, *A Customs guide for travellers entering the UK : Customs Notice 1*, June 2001.

<sup>9</sup> As amended by SI 1999/1617



**Dawn Primarolo:** Customs officers are guided by Statutory Instrument 1992/3155 The Excise Duties (Personal Relief) Order 1992, implementing EU Directive 92/12/EC, which makes any excise goods personally imported from another member state liable to forfeiture if they are intended to be used for a commercial purpose. The Order lists a variety of factors to be used by customs to determine whether goods are imported for a commercial purpose.<sup>10</sup>

Clearly travellers should consider this list of factors when they make trips to the Continent in the expectation that they may purchase more than the guide levels set down in legislation. For travellers who have had their goods seized, Customs publish guidance on seeking redress<sup>11</sup> through their own internal complaints procedures, and through the Adjudicator and the Parliamentary Ombudsman, both of whom are independent of Customs.<sup>12</sup>

The two terms, ‘personal use’ and ‘personal consumption’, have been used widely and interchangeably in discussions of this issue, and many travellers have been confused as to whether they are allowed to buy goods for, say, a wedding party, - which would be for their own use - or if they have actually to consume all of their purchases themselves to avoid paying extra duty. During a debate on travellers’ allowances held during the Committee stage of the *Finance (No.2) Act 1992*, the then Paymaster General, Sir John Cope, used both expressions, but he underlined the point that the legislation is focused on whether purchases are made with a commercial aim, rather than the way in which non-commercial purchases may be distributed. In answer to Paul Boateng’s criticism that he had confused the issue, Sir John said, “I do not think that I made an error about personal use ... If a person brings in bottles of wine and gives them away as gifts ... that is not dutiable, but if money changes hands, it becomes dutiable.”<sup>13</sup>

There has been some concern about Customs officers stopping travellers and seizing their goods if they are carrying more than the guide levels,<sup>14</sup> and in this context a PQ on the proportion of travellers who are actually stopped by Customs is instructive:

**Mr. Howard:** To ask the Chancellor of the Exchequer how many people entering the UK were questioned by HM Customs and Excise in each of the last five years on suspicion of alcohol smuggling; how many were carrying more alcohol than the suggested guidelines for imports for personal use; and how many of these were allowed to enter the country on the grounds that the alcohol was for personal use.

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<sup>10</sup> HC Deb 9 March 2001 c 403W

<sup>11</sup> HM Customs & Excise, *Complaints and putting things right: our code of practice Customs Notice 1000*, June 2001

<sup>12</sup> HC Deb 30 April 2001 cc 513-4W

<sup>13</sup> SC Deb (B) 16 June 1992 c 47

<sup>14</sup> for example, “Brussels probes Customs over confiscations”, *Financial Times*, 29 June 2001. The issue was the subject of a short debate in the Lords on 8 February 2001 (cc 1266-1269).

**Mr. Boateng:** This information is not available in the format requested. Customs carefully target their anti-smuggling activity on those thought likely to be smuggling, and have no interest in legitimate cross-border shoppers. Accordingly only a very small proportion of the 90 million travellers who enter the UK each year are stopped by customs officers. Indeed, in 2000-01 less than 0.2 per cent. of the estimated 14 million travellers through the channel ports had goods seized by customs. The majority of people entering the UK with goods in excess of the minimum indicative levels were able to satisfy customs that the goods were for their own personal use.<sup>15</sup>

Nevertheless in October 2001 the European Commission made a formal request to the UK for information on how it was applying the law in practice. On the basis of the UK's reply the Commission would determine whether it considered the UK was acting in conformity with Community law. In a press notice, Frits Bolkestein, the European Commissioner for the Internal Market and Taxation, was quoted as follows:

Europe's Internal Market gives people a fundamental right to go shopping in other EU countries without having to pay extra taxes when they return home. We want to make sure that private individuals are not hindered or prevented from bringing tobacco and alcohol products which they have bought in other Member States back into the UK, for non-commercial use. The Commission has received a number of complaints about practices at UK ports and airports, and we want to make sure we have got the facts straight on the situation. The Commission is therefore asking the UK authorities to provide us with all relevant information. I am confident that we can work with the UK authorities to ensure that people's right to go shopping in other EU countries is respected without undermining efforts to tackle the serious problem of smuggling goods into the UK for sale on the black market.<sup>16</sup>

The then Financial Secretary, Paul Boateng, met with the Commissioner the following month, as he explained in a written answer:

I met Commissioner Bolkestein on 20 November and explained that the Government are totally committed both to the principle that EU citizens should be able to engage in cross border shopping for their own use in other member states and to tackling criminal smuggling. The Government are confident that the approach of UK Customs to tackling those individuals who seek to break the law by smuggling alcohol and tobacco into the UK is fully consistent with our EU obligations and that once the European Commission is fully informed of the situation, they too will be satisfied.<sup>17</sup>

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<sup>15</sup> HC Deb 11 December 2001 c 773W

<sup>16</sup> European Commission press notice IP/01/1482, 24 October 2001

<sup>17</sup> HC Deb 3 December 2001 cc 63-4W

A formal response was made to the Commission on 18 December 2001;<sup>18</sup> a press notice issued at the time gave details:

The Government today spelt out its determination to continue cracking down on tobacco smuggling at the Channel ports, insisting that its fair and balanced approach was not aimed at the genuine shopper. In a letter sent today to the European Commission, the Government has strongly defended Customs' efforts to tackle those engaged in alcohol and tobacco smuggling, and repeated a long-standing invitation for the Commission to come and see the reality of the smuggling problem at the UK's Channel ports.

In the letter, the Government explains that:

- it fully upholds the rights of UK citizens to bring back unlimited amounts of alcohol and tobacco from cross-Channel shopping trips, so long as they are for their own use;
- but it is determined to crack down on the smugglers who bring back alcohol and tobacco to be illegally re-sold within the UK;
- and it makes clear that Customs' policies for distinguishing between ordinary shoppers and possible smugglers are based on the European Commission's own guidelines.

The Government also set out clear evidence that Customs' efforts are solely targeted on tackling smuggling, revealing that:

- of the 14 million people who entered the UK via the Channel ports last year, more than 99.8 per cent passed through Customs' controls without a problem;
- of the minority who were stopped and asked questions by Customs, the majority were able to explain that the goods they were carrying were for their own use and were allowed to travel on freely;
- the average quantity of goods seized from cross-Channel smugglers was around 20 kilograms of hand-rolling tobacco, enough to make 34,000 cigarettes;
- smugglers are masquerading as genuine shoppers to try and evade Customs' controls, using prams and toddlers' rucksacks to try and smuggle tobacco, and even strapping tobacco to babies' bodies;
- official estimates show that one in five organised crime gangs involved in smuggling Class A drugs into the UK are also engaged in tobacco smuggling;
- and these gangs have been targeting Customs officers and buildings with physical violence, intimidation, vandalism and arson attacks.

To date the Commission has not published its response.

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<sup>18</sup> The formal response itself is confidential. Documents relating to infraction proceedings, of which the letter of formal notice is the first stage, remain confidential unless and until the proceedings reach the European Court of Justice. (HC Deb 5 March 2002 cc 200-1W).

## II The Government's strategy to tackle duty fraud

### A. The growth in cross border shopping and smuggling

There has been some progress toward the harmonisation of excise duties across the EU.<sup>19</sup> Nevertheless Member States have considerable discretion in setting duty rates on both alcohol and tobacco products, and the variation in duty rates and in prices across the EU has been one important factor in the growth of both cross border shopping and smuggling.<sup>20</sup> In brief, the current agreement on harmonising duties was reached on 24 June 1991 and incorporated into a number of EC directives adopted on 19 October 1992. Specific minimum rates were set for excise duties on mineral oils, alcohol, and tobacco products, from 1 January 1993.<sup>21</sup> Member States are free to set rates appropriate to their own circumstances, provided they are not lower than the minimum levels specified in the relevant directive. The sheer variation in duty rates between countries made any closer form of harmonisation politically infeasible. No significant changes have been made since then.<sup>22</sup>

The rates of excise duty on alcoholic drinks and tobacco products in this country are significantly higher than those in most other EU Member States.<sup>23</sup> In the UK beer is charged duty at 34p per pint – compared with 5p in France, 3p in Germany and 7p in the Netherlands. Duty on a 70cl bottle of spirits is set at £5.48 in this country, compared with £2.51 in France and £1.19 in Spain. Duty on a 75cl bottle of table wine is £1.16 in the UK, compared with 2p in France and 0p in Spain.<sup>24</sup> The total excise duty on a packet of 20 cigarettes is £2.80 in the UK, £1.22 in France, £1.00 in the Netherlands and 99p in Belgium.<sup>25</sup> The consequent variation in prices for these products has been a strong incentive for travellers to purchase alcohol and tobacco on the Continent for their own use. For example, five years after the inception of the Single Market, the annual cost of revenue lost from legal cross border shopping was estimated to be £375 million for 1998: £55m from beer, £180m from wine, £50m from spirits, and £85m from tobacco products.<sup>26</sup>

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<sup>19</sup> For a general discussion of tax harmonisation see European Commission, *Tax policy in the European Union: priorities in the years ahead*, COM(2001) 260 final May 2001.

<sup>20</sup> Two reports by the Treasury Committee provide some background on the first impact of the Single European Market in this respect: *Cross Border Shopping*, 23 November 1994 HC 35 1994-95; *The Cross Border Market in Excise Products*, 16 November 1995 HC 24 1995-96.

<sup>21</sup> The four directives setting minimum duty rates were: cigarettes (92/79/EEC); other tobacco products (92/80/EEC); mineral oils (92/82/EEC); alcohol (92/84/EEC).

<sup>22</sup> Some changes to the minimum rates of tobacco duty are made under Council Directive 2002/10/EC (OJ L 46, 16.2.02), which enters force on 1 July 2002, though only Member States charging the very lowest duty rates will be directly affected ("EU finance ministers agree to raise minimum excise duty on tobacco", *European Report*, 16 February 2002).

<sup>23</sup> Generally duty rates are comparable to those in the UK or higher in Denmark, Finland, Ireland and Sweden – though the UK has by far the highest rate of duty on cigarettes across the EU.

<sup>24</sup> These rates are: for beer of 5% ABV or 12.5<sup>0</sup> Plato; for wine of 11.5% alcohol by volume; for spirits of 40% alcohol by volume. In each case duty rates are given as at November 2001. HM Customs & Excise, *Alcohol Factsheet*, February 2002 pp 7-8.

<sup>25</sup> Duty rates as at November 2001. HM Customs & Excise, *Tobacco Factsheet*, February 2002 p 9

<sup>26</sup> HC Deb 26 November 1999 cc 254-5W

The level of tax on alcohol and tobacco in this country – both in absolute terms, and relative to the tax take in other European countries – has also been a factor in the growth of smuggling over the last decade. For goods smuggled into the UK, the Exchequer loss is two-fold: first, in respect of the tax (excise duty and VAT) which should have been paid on those particular goods when sold in the UK ('revenue evaded'); second, in respect of the purchases consumers would have made in the UK, had they not been substituted by these illegal sales ('revenue lost').<sup>27</sup> In both respects tobacco products – especially hand rolling tobacco – has accounted for the lion's share of these costs – though the level of alcohol smuggling has not been inconsiderable. Looking again at the first five years of the Single Market, by 1998 it was estimated that the total annual cost of alcohol smuggling was £535 million (£305m of which was revenue evaded). By comparison, the estimated cost of tobacco smuggling in the same year was £1,870 million (£935m of which was revenue evaded).<sup>28</sup>

It is worth noting that there are a number of types of excise fraud, including:

- the smuggling of duty paid goods (the 'white van trade'), where goods bought ostensibly for personal use are sold on in the UK without payment of UK duty and VAT;
- 'diversion fraud', where goods destined for export are in fact diverted to the UK home market without payment of VAT or UK duty;
- large-scale smuggling of alcohol and, particularly, tobacco from countries outside the EU by concealment or misdescription in order to evade duty and VAT.<sup>29</sup>

On the matter of diversion fraud, under the Single Market Member States are required to operate a system of duty suspension in order to facilitate alcohol trade.<sup>30</sup> The system allows registered traders or warehousekeepers to produce, process, store and move goods without payment of duty – keeping them in an approved excise warehouse, so they can time the payment of the duty nearer to the time when they actually sell the goods. Duty only becomes payable when the goods are released for consumption, or acquired by an unregistered individual. 'Outward' diversion fraud occurs when duty suspended goods destined for export, or for another UK excise warehouse, are illegally diverted from an excise warehouse on to home or overseas markets without payment of duty. 'Inward' diversion fraud occurs when duty suspended goods imported to an excise warehouse are illegally diverted on to the UK market – once they clear frontier controls – without payment of duty.

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<sup>27</sup> For a longer explanation of this distinction see Treasury Committee, *Second report: HM Customs & Excise*, 8 February 2000 HC 53, 1999-2000 p 193.

<sup>28</sup> HC Deb 26 November 1999 cc 254-5W. The annual cost of smuggling of hand-rolling tobacco alone was estimated to be £1,370m in 1998. For these purposes it was assumed that between 70 per cent. and 80 per cent. of all alcohol purchased abroad substituted for similar purchases in the UK (100 per cent. assumed for tobacco products).

<sup>29</sup> Treasury Committee, *HM Customs & Excise*, 8 February 2000 HC 53 1999-2000 para 46

<sup>30</sup> for details see National Audit Office, *Losses to the revenue from frauds on alcohol duty*, 19 July 2001 HC 178 2001-02 pp 1-5

The duty-suspended movement of tobacco is more restricted than alcohol. UK manufactured tobacco products must be removed to home-use directly from the manufacturer's premises. Also, most exports are made directly from the manufacturers' premises.<sup>31</sup> As a consequence there are distinct differences in the pattern of revenue fraud involving alcohol as opposed to tobacco, as a recent methodological paper by Customs observes:

The majority of cigarette fraud involves large-scale smuggling by freight – principally in either deep-sea containers or 'roll on roll off' lorries. Most of the remainder is smuggled in light vehicles through the Channel ferry ports and the Channel Tunnel (the so-called 'white van trade') ...

In the case of beer and wine, revenue losses from fraud are relatively small and are largely the result of cross-Channel smuggling from duty paid sources in other Member States. In the case of spirits, the principal feature of the fraud involves the diversion of duty suspended goods moving between excise warehouses for consumption on the domestic market. These goods are mostly manufactured in the UK and distinguishing between legitimate and illicit spirits at the retail stage is difficult. Customs estimate that about half of all illicit spirits are sold to consumers through retail outlets at legitimate retail prices.<sup>32</sup>

## **B. Tobacco smuggling and vehicle seizure**

The then Financial Secretary, Dawn Primarolo, now Paymaster General, asked Customs and Excise to carry out a review of alcohol and tobacco fraud in partnership with the trade, at the time of the Labour Government's first Budget following the General Election in July 1997. The report was published in July 1998,<sup>33</sup> and on its publication the Government announced a series of measures to tackle both tobacco and alcohol smuggling.<sup>34</sup> Further details of the Government's response to the Review's recommendations have been published since then.<sup>35</sup>

As noted above, the costs of tobacco smuggling have dwarfed those of alcohol smuggling, and evidence that the problem was worsening in the mid-late 1990s saw a major three year initiative on the part of Government announced at the time of the March 2000 Budget, building on the recommendations made in a report by Martin Taylor to the

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<sup>31</sup> HM Customs & Excise, *Tax stamping of spirits*, December 2001 p 7

<sup>32</sup> *Measuring Indirect Tax Fraud*, November 2001 p 2

<sup>33</sup> HC Deb 28 July 1998 c 214W; HM Customs & Excise, *Report of the alcohol & tobacco fraud review*, January 1998 [Dep 98/83]. Section 4 of the report provides more details on the types of alcohol and tobacco smuggling there are.

<sup>34</sup> HM Customs & Excise press notice 19/98, 28 July 1998

<sup>35</sup> First in answer to a PQ (HC Deb 10 February 1999 cc 256-258W), and more recently in a deposited paper (HM Treasury/HM Customs & Excise, *Alcohol and tobacco fraud review: update on implementation of recommendations*, November 2001 Dep 01/140).

Chancellor in November 1999.<sup>36</sup> Mr Taylor argued that the penalties imposed on vehicles used for smuggling were too light, and that Customs should not waste resources for prosecuting excise fraud by taking small time offenders to Court (*emphasis added*):

By Budget 1999 it was clear that more needed to be done to tackle the problem of smuggling, and so the Chancellor announced that there would be an independent evaluation of the problem of tobacco smuggling and the measures needed to tackle it. Martin Taylor, now Chairman of W H Smiths, was invited last summer to carry out the independent evaluation announced in the 1999 Budget. With help from Customs and Excise and Treasury officials, he consulted widely with other government departments and the tobacco industry. He reported to the Chancellor in November.

His advice was primarily directed towards reducing the profitability of smuggling ... [though he] also stressed the importance of increasing the penalties of people caught smuggling: “This category consists of measures which either increase the penalties of smuggling or are apt to make distribution more difficult and may thus reduce the achieved profit. I recommend that all possible steps be taken to seize and confiscate the assets of criminals, both under existing criminal and planned civil forfeiture rules.”

The specific recommendations were:

- All possible steps be taken to seize the assets of criminals both under existing criminal and planned civil forfeiture rules.
- Major and persistent smugglers to face custodial sentences.
- *For small scale smugglers, Customs will concentrate on seizing assets.*
- *Toughening of vehicle seizure and terms on which any restoration is offered.*
- A more bracing penalty regime applied to licensees of pubs and clubs whose premises are used for dealing in contraband.
- Introduction of prominent fiscal marks.<sup>37</sup>

In February 2000 Customs announced a change in its policy on vehicle seizure:

Anybody who uses light commercial vehicles, such as transit vans and pick ups, for smuggling alcohol and tobacco now face losing their vehicle on the first occasion they are caught. This policy is designed to tackle the continued and persistent use of certain types of vehicles for the commercial smuggling of alcohol and tobacco across the Channel ...

**Vehicle Owners** From tomorrow if you are caught using a light commercial vehicle for smuggling alcohol and tobacco, the conditions for getting it back will depend on the total revenue evaded. Where the total revenue evaded using the seized vehicle exceeds the trade-in value of the vehicle it will not be returned to you, even if this is the first time you've been caught. Where the total revenue

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<sup>36</sup> HM Treasury/HM Customs & Excise Budget press notice HMT/C&E 1, 22 March 2000

<sup>37</sup> *Tackling Tobacco Smuggling*, March 2000 pp 8-9

evaded using the seized vehicle is less than the trade-in value of the vehicle, the vehicle may be offered back to you for a fee, provided it is the first time you have been caught smuggling. The fee will be an amount equal to 100% of the revenue evaded. The policy was previously to return the vehicle to all first time offenders for a fee equal to 100% of the revenue evaded or the trade-in value of the vehicle, whichever is the lower.

**Third Party Owners** When a vehicle is seized and the owner is not present at the time of interception, Customs will interview the owners in order to establish whether they are culpable, negligent or innocent. Where Customs believe that the owner is party to the offence, the vehicle will not be restored. Where owners are deemed as negligent they will get the vehicle back only after payment of a sum equivalent to 50% of the revenue evaded. The policy was previously to charge 25% of the revenue evaded on the first occasion. If any vehicle belonging to a third party is used to smuggle and transport illicit alcohol and tobacco for a second or subsequent time it may not be restored.

**Rental Vehicles** At the moment these policy changes do not apply to vehicles hired out by car rental companies, but this policy is the subject of ongoing review. Currently where Customs have evidence that the company is continuing to rent vehicles to smugglers and they have done nothing to change this in response to Customs' warnings, they will be charged a fee of 25% of the duty evaded if any of their vehicles are seized by Customs. Customs advise rental companies to ensure that their contracts make the hirer responsible for Customs' charges and penalties and to be vigilant where payment is being made in cash or by using the credit card of a person not named on the contract as either the hirer or a driver.<sup>38</sup>

It is worth stressing that this measure represented a change in emphasis in Customs anti-smuggling policy; it did not require any legal change in Customs' *existing* powers of seizure. Briefly, Customs' powers to detain persons, seize goods and institute legal proceedings are established under part XI of the *Customs & Excise Management Act 1979*: sections 139-144 cover the forfeiture of goods, cargo, vehicles, ships etc, and section 141 allows for the seizure of "any ship, aircraft, vehicle ... used for the carriage, handling, deposit or concealment" of smuggled goods, as well as "all tackle, apparel or furniture" associated with that vehicle, etc. As a consequence Customs may seize not only a vehicle used for smuggling, but also its cargo, if the smuggled goods have been concealed in that cargo.

Customs' policy in this area has been elucidated in a number of recent PQs. The majority of Customs anti-smuggling searches of international traffic take place at the port, on Port Authority premises. Customs do, on occasion, undertake intelligence-led anti-smuggling

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<sup>38</sup> HM Customs & Excise press notice 8/2000, 9 February 2000. In July 2000 the Department instructed staff that any private vehicle involved in the transport of smuggled tobacco, detected either at the frontier or inland, was to be seized and not 'restored': ie, released on payment of a penalty (*The collection of excise duties in HM Customs and Excise*, Cm 5239 July 2001 p 86).



work away from the ports (eg, intercepting targets on motorways) usually working with the police.<sup>39</sup> The legality of any vehicle seizure can be challenged in the magistrates court.<sup>40</sup> Seized vehicles are forfeit once a month has passed and no appeal has been received, or where there is an appeal and the magistrates find in favour of Customs.<sup>41</sup> Customs' decisions not to restore vehicles or goods which have been seized can be appealed in the first instance to a customs review officer and then to the independent VAT and Duties Tribunal.<sup>42</sup> Seized vehicles are stored until condemnation proceedings are completed giving Customs the legal right to dispose of them as they see fit.<sup>43</sup> There are a number of sites used for this purpose, though specific details of these sites is not published to reduce the risk of criminal attempts of theft and damage.<sup>44</sup>

If Customs choose to sell the vehicle at auction then the tax disc is sold as part of the vehicle. If the vehicle is crushed, Customs return the tax disc to the DVLA and the Exchequer is refunded. In the great majority of cases any personal possessions in private vehicles are taken by the individual at the time of seizure. However, Customs allow at least 30 days for the collection of personal possessions before they are disposed of. In the rare event that personal possessions are not claimed within a reasonable period, Customs dispose of them. It is not normally Customs practice to sell such items.<sup>45</sup> All moneys relating to the sale of seized vehicles are returned to the Exchequer.<sup>46</sup>

As mentioned above, the Government announced its strategy to deal with tobacco smuggling in the March 2000 Budget. Following on from Martin Taylor's recommendations, one of the principal methods chosen to discourage smuggling, or the purchase of tobacco for illegal resale, was an increased emphasis on the seizure of assets:

Building on Martin Taylor's work, the Government has now developed a new strategy which aims to put smuggling into decline within three years. The Government's policy is aimed at increasing the chance of being caught, and increasing the penalties when smugglers are caught. This should stop smuggling being profitable. The strategy is underpinned by research into the profitability of tobacco smuggling. This suggests that if Customs could raise its current interception rates three or four fold, profitability would be so reduced that existing smugglers would be deterred from continuing. Such a large increase in Customs' interception rate indicates the extent of the step change necessary to tackle this problem.

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<sup>39</sup> HC Deb 17 June 2002 c 139W

<sup>40</sup> Further guidance is given in *Customs Notice 12 Compounding, seizure and restoration*, April 1998.

<sup>41</sup> HC Deb 13 November 2001 cc 605-6W

<sup>42</sup> HC Deb 23 October 2001 c 202W. Guidance on this issue is given in *Customs Notice 990 Excise and Customs appeals*, December 1997.

<sup>43</sup> HC Deb 14 November 2001 c 766W

<sup>44</sup> HC Deb 28 November 2001 c 1017W

<sup>45</sup> HC Deb 3 December 2001 cc 64-65W

<sup>46</sup> HC Deb 3 December 2001 c 64W

The main points of the strategy are a focus on:

- Disruption all along the supply chain involving a step change in interception rates and a severe seizure policy;
- Improved intelligence to optimise interception rates and target major inland distribution;
- Investigation geared to maximum disruption of supplies at import and key distribution points;
- Extra resources both human and technological (x-ray scanners) to enhance the vigour and scope of the enforcement effort and achieve the step change in interception rates necessary to make tobacco smuggling an economically unattractive proposition;
- Targeted measures to apply effective sanctions to those caught involved in inland distribution with a particular emphasis on preventing illicit supplies seeping into the ordinary retail market, thus keeping up the economic pressure on the smugglers' distribution processes;
- Increased emphasis on asset confiscation to remove the economic rewards of smuggling;
- Financial investigation will be an integral part of all large scale smuggling/distribution cases to ensure assets are identified and Confiscation Orders obtained;
- Better use will be made of civil recovery and related economic penalties where retailers are caught making illicit supplies; and
- Enhanced working with other UK agencies both domestically and abroad, notably the intelligence agencies, the police, the Inland Revenue and the Benefits Agency...

From September 1999 Customs had begun to reprioritise resources to put in additional effort to disrupt tobacco smuggling by means of blitz exercises at both the frontier and inland and through a parallel investigative attack. There has already been a substantial increase in seizures. For the financial year 1999–00 they are likely to be in the order of 1.6 billion cigarettes compared to 560 million in the previous year. This shows that the trend can be reversed and tobacco smuggling put into decline over the next three years if sufficient additional effort is input and sustained.<sup>47</sup>

In March 2001 the Paymaster General, Dawn Primarolo, was asked for details of the Government's policy in this area; part of her answer is reproduced below:

Last March, the Government announced their 'Tackling Tobacco Smuggling' strategy, which is designed first to slow the growth in tobacco smuggling, which has been on a strong upward trend, and then to put it into decline within three years. The strategy provided £209 million for investment in 1,000 extra staff and a national network of X-ray scanners. This strategy is at an early stage but it is already beginning to show results. In the first nine months of 2000-01, Customs have seized more than 1.4 billion cigarettes in the UK and helped overseas

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<sup>47</sup> HM Treasury/HM Customs & Excise, *Tackling Tobacco Smuggling*, March 2000 pp 9-11

enforcement agencies seize nearly 700 million cigarettes en route to the UK. Customs investigators have also broken up 38 major organised crime gangs involved in the smuggling and supply of huge volumes of illicit cigarettes.

As more front-line staff are put in place, new X-ray scanners come on line, and tobacco pack marks come into force<sup>48</sup>, Customs will be able to take even more effective action against the criminals involved in tobacco smuggling. As part of the ‘Tackling Tobacco Smuggling’ strategy, Customs are pursuing a target for 2000-01 of holding illicit market penetration to 21 per cent. of the UK cigarette market ... Customs' assessment for the calendar year 2000 suggests that 22 per cent. of the UK cigarette market is made up of smuggled cigarettes ... Customs also estimate that 70 per cent. of cigarette consumption in the calendar year 2000 was of UK tax paid product and 8 per cent. was legitimately purchased for personal consumption free of UK taxes.<sup>49</sup>

Nevertheless the policy of vehicle seizure has not been uncontroversial,<sup>50</sup> as the number of seizures has increased substantially:<sup>51</sup>

year	number of vehicles seized across whole of UK
1994-95	600
1995-96	1,446
1996-97	2,002
1997-98	2,929
1998-99	3,193
1999-00	5,200
2000-01	10,200

At the time of the Pre-Budget statement in November 2001, the Government published a paper, *Tackling Indirect Tax Fraud*, which presented evidence of the first year of this strategy, suggesting that this policy was proving highly effective:

The Government set a target to reduce the revenue loss from cross-Channel smuggling by 10 per cent each year, deployed 170 additional staff specifically to this purpose, and introduced a tougher policy of vehicle seizures, to make smugglers count the cost of using their cars and vans to transport illicit goods.

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<sup>48</sup> Since 1 July 2001 all cigarette and hand rolling tobacco packets bought and sold in the UK have had to carry a fiscal mark – a label stating ‘UK duty paid’. This allows for smuggled tobacco being illegally resold in this country to be spotted more easily. It is *not* an offence to possess tobacco without the pack mark if it is bought legitimately from abroad, either as Duty Paid or as Duty Free (ie, from outside the EU). HM Customs & Excise press notice 26/01, 29 June 2001.

<sup>49</sup> HC Deb 7 March 2001 cc 229-230W

<sup>50</sup> A recent EDM criticising Customs’ approach - EDM 480 “Seizure of private vehicles by Customs and Excise”, 27 November 2001 - has attracted 41 signatures to date.

<sup>51</sup> HC Deb 18 June 1998 c 274W; HC Deb 15 January 2001 c 124W; HC Deb 3 December 2001 c 65W; HM Customs & Excise Pre-Budget press notice C&E1, 27 November 2001

The results from the first full year of the strategy show that these measures have had a dramatic impact on this type of smuggling:

- smuggling of beer has almost been eliminated, with a 93 per cent reduction in revenue lost from evasion;
- losses from smuggling of spirits and wine have been more than halved; and
- losses from smuggling of hand rolling tobacco are down 81 per cent.

Overall, the revenue lost from cross-Channel smuggling has been cut by 76 per cent, massively exceeding the key target of a 10 per cent reduction.<sup>52</sup>

In 1999 it was estimated that the annual revenue evaded from cross-Channel smuggling was £255 million from alcohol and £985 million from tobacco.<sup>53</sup> In 2001 these figures are estimated to be £50 million and £345 million respectively.<sup>54</sup> Estimates for legal cross border shopping show some growth in sales of cigarettes, spirits and wine, but stability in the sale of beer.<sup>55</sup>

Customs' policy towards vehicle seizure has been modified recently, in light of a judgement by the Court of Appeal concerning the proportionality of a Customs decision to take someone's vehicle as forfeit.<sup>56</sup> In this case the respondent had bought cigarettes and tobacco for members of his family with money provided by them. Although the goods were to be redistributed on a 'not-for-profit' basis, both the goods and the respondent's vehicle were seized by a Customs officer, on the grounds that the goods were held for a 'commercial purpose' and UK duty had not been paid on them. The respondent made an appeal to the VAT and Duties Tribunal, which held that this action was disproportionate and would cause undue hardship. The Court ruled that the Tribunal was right to decide the Customs officer had failed to have regard to all material considerations in taking this course of action, and that Customs should conduct a further review of their decision. On the general issue of proportionality, the Court noted the following:

Whilst the policy of the Commissioners in relation to the forfeiture of vehicles could not be condemned insofar as it applied to those who were using their cars for commercial smuggling, ie smuggling goods in order to sell them at a profit, it did not draw a distinction between the commercial smuggler and the driver importing goods for social distribution to family or friends in circumstances where there was no attempt to make a profit. Even in such a case the scale of importation, or other circumstances, might be such as to justify forfeiture of the car. Where, however, the importation was not for the purpose of making a profit,

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<sup>52</sup> HM Customs & Excise, *Tackling Indirect Tax Fraud*, November 2001 p 13. A second accompanying paper explains Customs' methodology in estimating the scale and trends in this activity (*Measuring Indirect Tax Fraud*, November 2001). Both are published on Customs' internet site.

<sup>53</sup> HC Deb 7 March 2001 cc 229-230W

<sup>54</sup> *Measuring Indirect Tax Fraud*, November 2001 p 22

<sup>55</sup> *op.cit.* pp 11-17

<sup>56</sup> *Lindsay v C&E Comrs* [2002] EWCA Civ 267

the principle of proportionality required that each case should be considered on its particular facts, which would include the scale of importation, whether it was a first offence, whether there was an attempt at concealment or dissimulation, the value of the vehicle, and the degree of hardship which would be caused by forfeiture.<sup>57</sup>

Following this judgement the then Financial Secretary, Paul Boateng, announced in a written answer that Customs would revise its policy on vehicle seizure:

**Barbara Follett:** To ask the Chancellor of the Exchequer if HM Customs and Excise will change its vehicle seizure policy in relation to alcohol and tobacco smuggling as a result of the Court of Appeal decision in the Lindsay case.

**Mr. Boateng:** The Court of Appeal confirmed in the Lindsay case that Customs vehicle seizure and non-restoration policy in relation to those who smuggle alcohol and tobacco for profit was justified and proportionate. It also confirmed that vehicles used to smuggle on a non-profit basis were similarly liable to seizure. However, the Court considered that in not-for-profit cases a proportionate response, depending on the individual circumstances, would be to offer to restore such seized vehicles. Accordingly when Customs detect commercial for profit smugglers, any vehicles used in such smuggling will remain subject to the existing tough seizure and non-restoration policy. However, Customs have now further developed their vehicle seizure policy, taking into account the clarification provided by the Court of Appeal.

When Customs detect not-for-profit smugglers their goods and vehicles will be seized but vehicle restoration will ordinarily be offered in the first instance for a sum equivalent to the revenue evaded. There will be a rising scale for any subsequent offences up to non-restoration. Customs will reserve the right to vary their restoration terms according to the aggravating or mitigating circumstances of any individual case. This policy will allow Customs to continue their successful approach of hitting those who smuggle for profit with tough sanctions that strike at their illicit trade and also provides a real and proportionate penalty for those who break the law, albeit without such profit making motivation. It represents a fair and balanced policy.<sup>58</sup>

Further details of the ‘sliding scale’ Customs will now use in these cases was given in a press notice issued at this time:

Taking into account the Court of Appeal’s comments in the Lindsay case, Customs have developed further their vehicle seizure policy. In every case, the officer dealing with the case retains the discretion whether to seize and offer restoration dependent on the precise circumstances but in general they follow

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<sup>57</sup> “Lindsay v C&E Comrs”, *Simon’s Weekly Tax Intelligence*, 28 February 2002 p 238

<sup>58</sup> HC Deb 2 May 2002 cc 932-3W

Departmental guidance. Where tobacco is smuggled into the UK, with a view to sale at a profit, both goods and vehicle will be seized and ordinarily not restored.

In cases of not-for-profit smuggling (i.e. sales at or below cost price):

- On the first detection, ordinarily the vehicle will be seized and restored for 100% of the revenue evaded or value of the vehicle, whichever is the lower. A letter warning of the consequences of further offences will also be issued.
- On the second detection, ordinarily the vehicle will be seized and restored for 200% of the revenue or value of the vehicle, whichever is the lower. A warning letter will be issued saying that a further breach of the Personal Reliefs Order may render the vehicle liable to seizure and non-restoration.
- On subsequent detections, ordinarily within 12 months, the vehicle will be seized and not restored unless there are exceptional circumstances.

Customs reserve the right to vary these restoration terms up or down if there are particular aggravating or mitigating circumstances in any given case. The goods will be seized in all such detections as liable to forfeiture for breaching the conditions for relief in the Personal Reliefs Order. They will not be restored.<sup>59</sup>

### **C. Alcohol fraud, the Roques report and spirit stamps**

There has been one further important development in relation to excise fraud involving alcohol. In June 2000 the Paymaster General Dawn Primarolo commissioned a full independent investigation, headed by John Roques, an ex-senior partner of Deloitte and Touche, into the collection of excise duties. This followed an internal Customs assessment which had found serious weaknesses in the Department's control of excise duty collection, in particular the mechanisms for releasing dutiable spirits and wine from bonded warehouses over the period 1995-1998.<sup>60</sup> It is now estimated that frauds between 1993 and 2000 led to alcohol duty evasion of £668 million from diversion onto UK markets.<sup>61</sup>

The Roques Report was presented to Ministers in December 2000, and made a total of 65 recommendations designed to strengthen the excise holding and movements systems, improve controls on investigations, and establish clearer lines of accountability for revenue issues at senior levels within Customs. The Treasury Committee looked at this issue in March 2001, requesting that both the report and the Government's response to it should be published,<sup>62</sup> which occurred in July.<sup>63</sup>

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<sup>59</sup> HM Customs & Excise press notice PR34/02, 2 May 2002

<sup>60</sup> HM Customs & Excise press notice PR26/2000, 30 June 2000

<sup>61</sup> Another £216 million was accounted for which involved goods diverted overseas where duty would have been due in the country of import had the goods not been fraudulently diverted (National Audit Office, *Losses to the revenue from frauds on alcohol duty*, 19 July 2001 HC 178 2001-02 p 2).

<sup>62</sup> *HM Customs & Excise: collection of excise duties*, 22 March 2001 HC 237 2000-01

<sup>63</sup> HM Treasury, *The collection of excise duties in HM Customs and Excise: Report by John Roques and government response* Cm 5239 July 2001

In its response to the Committee's report the Government set out the key measures that had been implemented, or were being considered, in the wake of the report:

The Roques report made 65 recommendations of which Customs fully or partially accept 62. The majority of these recommendations were implemented by July 2001. Key measures include:

- A more rigorous approach to the approval of warehouses,
- Tightening the registration procedures for warehousekeepers and the owners of goods,
- Improving the information on the holding and movement of excise goods where the duty has not been paid,
- Improving the exchange of information with other Member States,
- Increasing the checks on warehousekeepers' compliance with holding and movement regulations,
- Tightening controls on hauliers,
- Considering the use of tax stamps for alcohol, and,
- The deployment of additional staff for excise warehouse controls.<sup>64</sup>

Recently the Treasury Committee has taken evidence on the report and the Government's response to it.<sup>65</sup>

At the time of the *Pre-Budget Report* in November 2001, the Government published details of its strategy to deal with all forms of indirect tax fraud – including alcohol fraud, and specifically fraud involving spirits. An extract from this paper is reproduced below:

The great majority of alcohol excise duty comes from beer, wine and spirits. The illicit market for beer and wine is relatively small and has traditionally resulted from cross-Channel smuggling of duty paid goods from other EU Member States. However ... activity at the Channel ports is already having a tangible impact in reducing smuggling of beer and wine. The Government therefore believes that the next major challenge lies in tackling large-scale spirits fraud.

The principal feature of spirits fraud involves the diversion of duty-free goods moving between excise warehouses for consumption on the domestic market. These goods are mostly manufactured in the UK and distinguishing between legitimate and illicit spirits at the retail stage is difficult. Customs estimate that about half of all illicit spirits are sold to consumers through retail outlets at legitimate retail prices. Fraudulent traders therefore make a huge mark-up on the fraud by exploiting consumers who are often unaware that they are purchasing illicit goods. Spirits fraud is estimated to have cost up to £450 million in revenue losses in 1999-2000, equivalent to 15 per cent of the UK market.

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<sup>64</sup> *The Government's response to the Committee's sixth report of session 2000-01*, 30 October 2001 HC 315 2001-02 p iv

<sup>65</sup> *HM Customs and Excise - the Roques report: Minutes of evidence*, 14 & 28 November 2001 HC 371-ii 2001-02

To tackle spirits fraud, and in particular the problem of inward diversion, Customs have so far:

- established a specialist team to check and “discredit” the paperwork covering the movement of duty suspended goods in freight consignments;
- implemented a tougher HGV seizure policy, targeting those hauliers who fail to conduct simple checks to ensure they are not caught up in fraud;
- commenced the redeployment of an additional 146 assurance officers to strengthen the excise holding and movements system;
- started a review of all warehouse approvals; and
- increased the resources deployed to excise intelligence and research.

The Government believes that further action will be necessary to reduce revenue losses from spirits fraud and to reduce the competitive disadvantage suffered by legitimate wholesale and retail traders. The Government has therefore decided to press ahead with the next stage of the strategy which involves:

- increasing the rate of checks carried out on spirits consignments when they enter the UK under duty suspension;
- applying improved intelligence to help target additional checks on suspicious consignments, helping to limit the impact on legitimate traders and hauliers;
- strengthening the controls on bonded warehouses within the UK;
- consulting widely on the costs, benefits and practicalities of introducing a tax stamps system for spirits, designed to assist in the identification of smuggled products;<sup>66</sup> and
- if it is decided to proceed with the tax stamps system, introducing new sanctions for those found to be dealing illegally in un-stamped goods.

A key issue in the consultation process will be the development of a system which keeps compliance costs for legitimate businesses as low as possible, consistent with the aims of the strategy.

To measure the impact of this strategy, the Government will set Customs the objective of achieving gradual reductions in the market share of illicit spirits over the next three years.<sup>67</sup>

To this end Customs issued a consultation paper on introducing a tax stamps system for spirits in December 2001; the consultation period finished on March 5 2002. A press notice issued at the time gave some details how the system might work:

A tax stamp is a special stamp that would be issued by Customs to producers and importers of spirit products. The issue of the stamp would form the basis for

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<sup>66</sup> The Roques report recommended that “that [Customs] moves as quickly as possible to introduce tax stamps for spirits, and associated sanctions, to protect both excise revenues and the UK’s whisky production industry” (Cm 5239 July 2001 p 87). A similar system of ‘UK duty paid’ marks on packets of cigarettes and hand-rolling tobacco was introduced in July 2001 (*Budget 2001* HC 279 March 2001 p 101).

<sup>67</sup> *Tackling indirect tax fraud*, November 2001 pp 18-19



paying excise duty. As the duty is effectively paid in advance of the product being delivered onto the UK market, a stamp would provide for both greatly enhanced security and control of duty payment and certainty that product bearing a tax stamp is UK-duty paid. In addition, it would provide high visibility of the duty status of the product, so enabling easy identification of non-UK duty paid goods - through the absence of a tax stamp - by enforcement agencies and the public. In this way, those dealing illegally in unstamped goods would be doing so knowingly which, coupled with associated offences, would make their prosecution easier.<sup>68</sup>

However in the 2002 Budget the Government announced it had decided against the introduction of tax stamps. Instead, it would agree “a joint programme of co-operation with the spirits industry to trace and track illicit consignments of spirits.”<sup>69</sup> Details were given in a press notice issued at this time:

The Pre-Budget Report announced that there would be consultation on the costs, benefits and practicalities of introducing a tax stamps system. It was clear from this consultation process that the introduction of tax stamps would have a severe impact on the productivity and compliance costs of the spirits industry, which - if passed on in full - could have had a significant impact on retail prices for spirits.

The Government does not currently consider those costs proportionate to the benefits of tax stamps, particularly if alternative means of making progress to those objectives can be pursued. Customs will therefore work together with the industry on a joint strategy to identify, trace and track illicit consignments of spirits, radically increasing their exchange of information and making fraud easier to detect through the development of product testing kits and enhanced bar code data. Additional funding will also be made available to Customs this year, enabling them to step up the volume of intelligence-based checks on inward freight consignments of duty-suspended spirits (making full use of the national network of x-ray scanners), increase disruption of the criminal gangs engaged in spirits fraud, and strengthen their controls on UK excise warehouses.<sup>70</sup>

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<sup>68</sup> HM Customs & Excise Business Brief 20/2001, 13 December 2001

<sup>69</sup> *Budget 2001* HC 592 April 2002 p 105

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